

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

VANESSA HALDEMAN &)	CASE NO. CV05 00810 DAE KSC
BENJAMIN HALDEMAN, BY)	
THEIR PARENTS AS <i>NEXT</i>)	FINDINGS AND
<i>FRIENDS</i> ; JOSEPH & DENISE)	RECOMMENDATION TO GRANT
HALDEMAN; JOSEPH)	PLAINTIFFS' MOTION FOR
HALDEMAN, individually; DENISE)	DETERMINATION OF GOOD
HALDEMAN, individually; JERRY)	FAITH SETTLEMENT WITH
HALDEMAN, individually; &)	DEFENDANTS [1124]
CAROL HALDEMAN, individually,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
RUTH GOLDEN, in her individual)	
capacity; PATRICIA NAVARRO, in)	
her individual capacity;)	
CAROLINE HAYASHI, in her)	
individual capacity; CYNTHIA)	
NOEL, in her individual capacity;)	
UNIVERSITY OF NATIONS)	
PRE-SCHOOL, a Private Agency;)	
THE UNIVERSITY OF NATIONS)	
as Respondeat Superior;)	
ALEXANDER GRAVES, in his)	
individual capacity; COUNTY OF)	
HAWAII, a municipal entity;)	
KAREN DUTY, in her individual)	
capacity; DONALD CUPP, in his)	
individual capacity; JILL ACERO,)	
in her individual capacity;)	
BOBBETTE STRAUSS, in her)	
individual capacity; THE)	
INSTITUTE FOR FAMILY)	
ENRICHMENT, a Domestic Profit)	
Corporation; CHILD)	

PROTECTIVE SERVICES, an)
agency of the Department of)
Human Services; DEPARTMENT)
OF HUMAN SERVICES [DHS],)
State of Hawaii; LILLIAN KOLLER,))
DIRECTOR OF DHS, in her)
official capacity; ANDREA)
MCCOLLUM, in her individual and)
professional capacity; LEGAL AID)
SOCIETY OF HAWAII, a Private)
Non-Profit Agency; DAVID)
KAULIA, in his individual capacity;)
COLLEEN CLARK, in her)
individual and professional)
capacity; CHILD AND FAMILY)
SERVICE, a Private Non-Profit)
Agency; JOINTLY AND)
SEVERALLY,)
)
Defendants.)
_____)

FINDINGS AND RECOMMENDATION TO GRANT PLAINTIFFS'
MOTION FOR DETERMINATION OF
GOOD FAITH SETTLEMENT WITH DEFENDANTS [1124]

Plaintiffs' Motion For Determination Of Good Faith Settlement

With Defendants [1124], filed on December 4, 2013, came on for hearing in the above-entitled Court on January 10, 2014, at 9:00 a.m., before the Honorable Kevin S.C. Chang. John Winnicki, Esq., appeared on behalf of Plaintiffs VANESSA HALDEMAN and BENJAMIN HALDEMAN, by Their Parents as Next Friends, JOSEPH and DENISE HALDEMAN; JOSEPH

HALDEMAN, individually; DENISE HALDEMAN, individually; JERRY HALDEMAN, individually; and CAROL HALDEMAN, individually (collectively, "Plaintiffs"). Stephanie D. Halford, Esq., appeared on behalf of Defendants UNIVERSITY OF NATIONS PRE-SCHOOL, UNIVERSITY OF NATIONS, RUTH GOLDEN, PATRICIA NAVARRO, CAROLINE HAYASHI, and CYNTHIA NOEL. Joseph K. Kamelamela, Esq., Senior Deputy Corporation Counsel, appeared on behalf of Defendants COUNTY OF HAWAII and ALEXANDER GRAVES. Mark J. Kaetsu, Esq., appeared on behalf of Defendants COLLEEN CLARK and CHILD AND FAMILY SERVICE. William J. Nagle, III, Esq., appeared on behalf of Defendants BOBBETTE STRAUSS and THE INSTITUTE FOR FAMILY ENRICHMENT. Michael N. Tanoue, Esq., appeared on behalf of Defendant DAVID KAULIA.

Having considered the written submissions and oral arguments of the appearing parties, previously having been actively involved in settlement conferences among the parties, having reviewed all settlement terms as set forth in the Sealed Exhibits "1" - "4" [1133], based upon the "totality of the circumstances" as required by *Troyer v. Adams*, 102 Hawaii 399, 77 P.3d 83 (2003), and pursuant to HRS § 663-15.5, the Court hereby

FINDS AND RECOMMENDS that:

1. Plaintiffs' Motion For Determination Of Good Faith Settlement With Defendants [1124], filed on December 4, 2013, be GRANTED.
2. Plaintiffs' settlements with (a) Defendants UNIVERSITY OF NATIONS PRE-SCHOOL and UNIVERSITY OF NATIONS;
(b) Defendants COUNTY OF HAWAII and ALEXANDER GRAVES;
(c) Defendants COLLEEN CLARK and CHILD AND FAMILY SERVICE;
and (d) Defendant DAVID KAULIA be determined to be in "good faith."
3. The settlements referenced in Paragraph 2 bar any other joint tortfeasor or co-obligor from any further claims against the Defendants referenced in Paragraph 2, except for claims based on a written indemnity agreement.
4. All cross-claims filed among the Defendants referenced in Paragraph 2 be dismissed with prejudice, except for cross-claims based on a written indemnity agreement.
5. The settlement agreements filed under seal in the Sealed Exhibits "1" - "4" [1133] remain under seal, except that the settlement agreement between Plaintiffs and Defendants COUNTY OF HAWAII and

ALEXANDER GRAVES can be publicly disclosed.

6. As a precondition to the obligations of the Defendants referenced in Paragraph 2 to pay the monetary consideration set forth in their respective settlements with Plaintiffs, Plaintiffs shall provide written proof to the Court and all Defendants referenced in Paragraph 2 that Gerald R. Tarutis, the Guardian Ad Litem for Plaintiffs VANESSA HALDEMAN and BENJAMIN HALDEMAN, who was appointed by the Superior Court of Washington, County of King, has not been discharged and is still authorized to act on behalf of Plaintiffs VANESSA HALDEMAN and BENJAMIN HALDEMAN.

7. The Court recognizes that Plaintiff JERRY HALDEMAN was given the authority by all Plaintiffs “to approve or disapprove any documents” pertaining to a settlement of the above-entitled action on behalf of all Plaintiffs in the Settlement And/Or Dismissal Authorization, effective as of September 2, 2010, attached as Exhibit “A” to Plaintiffs’ Reply In Support Of Motion For Determination Of Good Faith Settlement With Defendants [1132], and that, based on representations of Plaintiffs’ counsel, said authorization has not been altered or revoked.

8. The payee on the settlement checks payable by all

Defendants referenced in Paragraph 2 shall be “Deeley, King, Pang & Van Etten.”

DATED: Honolulu, Hawaii, January 29, 2014.




Kevin S.C. Chang
United States Magistrate Judge